

(Please see the additional comment at the end of this message.)

As a consumer of digital content, I have a grave concern about the proposed Broadcast Flag. I enjoy the flexibility and control that technology gives me. I can be more than a passive recipient of content; I can modify, create and participate. Technology currently gives me more choices by allowing me to record a television program and watch it later; clip a small piece of TV and splice it into a home movie; send an email clip of my child's football game to a distant relative; or record a TV program onto a DVD and play it at my friend's apartment. The broadcast flag seems designed to remove this control and flexibility that I enjoy.

Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time.) Diamond Multimedia invented the MP3 player -- a recording label did not. Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers.

I am a law-abiding consumer who believes that piracy should be prevented and prosecuted. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then the FCC should be working to protect all consumers rather than enable those who would restrict consumer rights. In the case of the broadcast flag, it seems that it will have little effect on piracy. With file-sharing networks, a TV program has only to be cracked once, and it will propagate rapidly across the Internet. So, while I may be required to purchased consumer electronic devices that cost more and allow me to do less, piracy will not be diminished.

In closing, I urge you to require the content industry to demonstrate that its proposed technologies will allow for all legal uses and will actually achieve the stated goal of preventing piracy. If they cannot, I urge you not to mandate the broadcast flag.

In addition to the above pre-written comment, which expresses several of my concerns, I would like to add other comments. In Nov of 2001 I purchased a digital television along with a digital receiver and other AV equipment at a cost of about \$3000.00. Will this new broadcast flag render my new equipment obsolete? Will I have to go out and spend another \$600.00 for a new receiver? I urge you to help protect the investments of early adopters such as myself and others, who have invested much more, by ensuring backward compatability, if this system is to be adopted.

If a hardware configuration is mandated this early in the development cycle of Digital Television, I feel the result would not be the stellar achievement we have come to expect from our technological innovators.

Will this requirement also be extended to computer hardware; thus putting the future of American innovation into the hands of a few, while the rest of the world is free to continue to progress? If this requirement is passed on to computer hardware we will have frozen computer innovation with government mandated system requirements, condemning our hardware to second or third class status worldwide. This would put the future of the economic world leadership of America at risk. The world turns to American innovation because we are the best

when we're free to pursue the best solutions to our problems. Any restrictions on lawful innovation would be disastrous in my humble opinion.

Thank you for your time.

G. Zavala